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JOHN T. FEY,

IN THE

# Supreme Court of the United States

OCTOBER TERM, ~~1957~~ 1958

No. ~~11~~ 10 Original

UNITED STATES OF AMERICA,
*Plaintiff*

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA, and FLORIDA
*Defendants.*

## ANSWER OF DEFENDANT THE STATE OF TEXAS TO SECOND CAUSE OF ACTION

WILL WILSON
Attorney General of Texas

JAMES N. LUDLUM
First Assistant Attorney General

JAMES H. ROGERS
Assistant Attorney General
State Capitol
Austin, Texas

JAMES P. HART
Brown Building
Austin, Texas

J. CHRYS DOUGHERTY
P. O. Box 1123
Austin 66, Texas

*Of Counsel*

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UNITED STATES OF AMERICA,
*Plaintiff*

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA, and FLORIDA
*Defendants.*

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## ANSWER OF DEFENDANT THE STATE OF TEXAS TO SECOND CAUSE OF ACTION

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The State of Texas, a defendant herein, by its Attorney General, in compliance with the Court's order of November 18, 1957, for answer to the Second Cause of Action of the Amended Complaint of the United States of America says:

I.

Texas admits the allegations in paragraph I.

II.

Texas admits the allegations in paragraph II to the extent but only to the extent that such allegations are a restatement of this Honorable Court's opinion and decree in *United States v. Texas*, 339 U.S. 707.

III.

Texas admits the allegations in paragraph III.

IV.

Texas admits that on May 22, 1953, Congress enacted Public Law 31, 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29. The terms of the Act in context are controlling. Texas denies that in paragraph IV the plaintiff has completely stated the terms and effect of the Act.

V.

Texas denies each and all of the allegations of paragraph V.

VI.

Texas denies those allegations in paragraph VI demanding an accounting and further denies all other allegations in this paragraph insofar as they may pertain to the lands, minerals and other things in and under the Gulf of Mexico, lying more than three geographic miles seaward from, and extending

seaward three marine leagues from, the ordinary low-water mark and from the outer limit of inland waters on the coast of Texas. Except as specifically denied, Texas admits the allegations of paragraph VI.

VII.

Texas admits the allegations in paragraph VII.

VIII.

Texas does not have sufficient information either to admit or deny the allegations contained in the first sentence of paragraph VIII. Texas admits the allegations of the second and third sentences of said paragraph.

IX.

Further answering, Texas says:

A. Prior to and at the time of its admission to the Union the statutes of the Republic of Texas fixed its seaward boundary as follows:

> ". . . beginning at the mouth of the Sabine River and running west along the Gulf of Mexico three leagues from land, to the mouth of the Rio Grande. . . "

This boundary so fixed was the boundary of the Republic of Texas and of the state of Texas as it existed at the time Texas became a member of the Union.

B. This seaward boundary was approved by the Congress of the United States at and after the time Texas was admitted to the Union and prior to the enactment of the Submerged Lands Act on May 22, 1953.

C. Therefore, by reason of the allegations of either subparagraph A or subparagraph B above, or subparagraphs A and B together, the United States on May 22, 1953, by the Submerged Lands Act, and subject to its limitations, released and relinquished to the State of Texas title to and ownership of and the rights of management, administration, leasing, use and development of the lands and natural resources in the Gulf of Mexico within the area in controversy (described in paragraph VI hereof) and further by the terms of said Act released its claim for accounting and damages.

X.

In the alternative, inasmuch as the lands and boundaries of Texas existed and extended three marine leagues from the coast before and at the time Texas became a member of the Union, or were so fixed by subsequent congressional or executive action, the present boundary of Texas was confirmed and the national boundary was fixed on May 22, 1953, by the terms of the Submerged Lands Act at three marine leagues from the coast of Texas irrespective of where the national boundary or the boundary of Texas may have been fixed, or attempted to be fixed, otherwise during the intervening period

from the admission of Texas into the Union to the date of passage of the Submerged Lands Act. Hence the United States on May 22, 1953, by the Submerged Lands Act, and subject to its limitations, released and relinquished to the State of Texas title to and ownership of and the rights of management, administration, leasing, use and development of the lands and natural resources in the Gulf of Mexico within the area in controversy (described in paragraph VI hereof) and further by the terms of said Act released its claim for accounting and damages.

XI.

In the alternative, Texas says that the United States has asserted certain rights in, jurisdiction and control over, and the power of disposition of the natural resources in the subsoil and sea-bed of the continental shelf, as evidenced by the Presidential Proclamation of September 28, 1945 (59 Statutes at Large 884) and as subsequently defined and augmented by the Submerged Lands Act and the Outer Continental Shelf Lands Act (67 Statutes at Large 462). By the Submerged Lands Act and subject to its limitations, the United States, irrespective of the location of its national boundary or the State boundary of Texas on May 22, 1953, transferred and assigned to Texas all of these rights, title and interests of the United States asserted under the Presidential Proclamation within the area in controversy and released its claim for accounting and damages.

XII.

The State of Texas denies each and every allegation contained in the Second Cause of Action of said complaint not herein admitted, controverted or specifically denied.

WHEREFORE, the State of Texas prays that Plaintiff take nothing by its Second Cause of Action, that Plaintiff's suit as to this defendant be dismissed with prejudice and that all costs properly allocable to the Second Cause of Action be taxed against the United States.

WILL WILSON
Attorney General of Texas

JAMES N. LUDLUM
First Assistant Attorney General

JAMES H. ROGERS
Assistant Attorney General
State Capitol
Austin, Texas

JAMES P. HART
Brown Building
Austin, Texas

J. CHRYS DOUGHERTY
P. O. Box 1123
Austin 66, Texas

*Of Counsel*

December 31, 1957

## PROOF OF SERVICE

I, Will Wilson, Attorney General of Texas, and a member of the Bar of the Supreme Court of the United States, certify that on the 24th day of December, 1957, I served copies of the foregoing answer of the State of Texas to the Amended Complaint by mailing, postage prepaid, copies thereof to the officies of the Attorney General and of the Solicitor General of the United States, respectively, in the Department of Justice Building, Washington, D. C., and to the Attorneys General of the States of Alabama, Florida, Louisiana, and Mississippi, respectively.

WILL WILSON

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JOHN T. FEY, Cle

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OCTOBER TERM, ~~1957~~ 1958

UNITED STATES OF AMERICA,
Plaintiff,

vs.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA,
Defendants.

## DEFENSES TO AMENDED COMPLAINT

SPESSARD L. HOLLAND
United States Senator
Washington, D. C.

RICHARD W. ERVIN
Attorney General

FRED M. BURNS
Assistant Attorney General

ROBERT J. KELLY
Special Assistant Attorney General

Capitol Building
Tallahassee, Florida

SOLICITORS FOR THE
STATE OF FLORIDA

# In the Supreme Court of the United States

OCTOBER TERM, 1957

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No. 11 Original

UNITED STATES OF AMERICA,
PLAINTIFF,

v

STATES OF LOUISIANA, TEXAS,
MISSISSIPPI, ALABAMA AND FLORIDA
DEFENDANTS.

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## DEFENSES TO AMENDED COMPLAINT FIRST, SECOND, THIRD AND FOURTH CAUSES OF ACTION

The State of Florida files no defenses to the First, Second, Third and Fourth Causes of Action, alleged in and by the Amended Complaint filed herein, they being directed exclusively and specifically against the States of

Louisiana, Texas, Mississippi and Alabama, and not against the State of Florida.

## FIFTH CAUSE OF ACTION

The State of Florida for defenses to the Fifth Cause of Action, alleges in and by the plaintiff's Amended Complaint and Statement with respect to said Amended Complaint, heretofore filed in this cause, says that she:

## FIRST DEFENSE

1. Admits the allegations of paragraph numbered "I" of the said Fifth Cause of Action.

2. Denies the allegations of paragraph numbered "II" of the said Fifth Cause of Action.

3. Admits the allegations of paragraph numbered "III" of the said Fifth Cause of Action.

4. Denies the allegations of paragraph numbered "IV" of the said Fifth Cause of Action.

5. Denies the allegations of paragraph numbered "V" of the said Fifth Cause of Action.

6. Admits the allegations of paragraph numbered "VI" of the said Fifth Cause of Action;

however, she further alleges that she is under no legal or equitable duty to account to the plaintiff for any sums of money received from or relating to the lands, minerals or other things underlying the "coast line" of Florida as defined in and by subsection (c) of section 1301, title 43, of the United States Code.

7. Admits the allegations of paragraph numbered "VII" of the said Fifth Cause of Action.

## SECOND DEFENSE

For a Second Defense to the said Fifth Cause of Action the said State of Florida says that subsequent to the admission into the Union, and during or about the year 1868, her boundaries in the Gulf of Mexico were approved by the Congress of the United States as being "three leagues from the land." In that the Congress, by its act of March 2, 1867, provided that "when the people of any one of said rebel states shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, . . . and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same . . . said State shall be declared entitled to repre-

sentation in Congress . . . ;" and the State of Florida, having formed such a state constitution, adopted the same by a majority vote of its qualified and voting electors, and caused the same to be submitted to the Congress of the United States during the year 1868, and the same having been approved by the Congress, and the State of Florida admitted to representation in Congress, as evidenced by acts and resolutions of the Congress and the journals of the Congress as reflected by the "Congressional Globe" for 1867 and 1868, it is, therefore, alleged that the Congress, subsequent to the admission of the State of Florida into the Union, heretofore approved the boundaries of the State of Florida as extending into the Gulf of Mexico for a distance of three leagues from the "coast line" as defined in and by subsection(c) of section 1301, title 43, of the United States Code, all within the purview of section 1312, title 43, United States Code.

## THIRD DEFENSE

For a Third Defense to the said Fifth Cause of Action the said State of Florida says that the United States acquired the Spanish Territories known as **East and West Florida** from the Kingdom of Spain under and by virtue of the "Treaty

of Amity, Settlement and Limits," of February 22, 1819, entered into by and between the said United States and the said Kingdom of Spain, under the requirement in said treaty contained that the said territories "be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights and immunities, of the citizens of the United States." Under the statutes and laws of Spain, and of Great Britain from whom Spain acquired the Floridas by treaty of 1783, and pursuant to a proclamation made and issued by the King of Great Britain during the time the Floridas were held and owned by Great Britain, the seaward boundaries of the said Floridas extended into the Gulf of Mexico not less than three marine leagues from the "coast line" as defined in subsection (c) of section 1301, title 43, of the United States Code. It is, therefore, alleged that the boundary of the Floridas and of the State of Florida, as authorized and contemplated by section 1312, title 43, United States Code, extended into the Gulf of Mexico not less than three marine leagues from the "coast line" aforesaid, prior to and when the State of Florida became a member of the Union.

## FOURTH DEFENSE

For a Fourth Defense to the said Fifth Cause of Action the said State of Florida says that under the statutes and laws of Spain, and under treaties by and with Spain, as well as under international laws as administered by Spain, prior to and at the time the United States acquired the Floridas from Spain, as well as when Florida became a member of the Union, Spanish international boundaries extended into adjoining oceans, seas and other general bodies of navigable waters adjacent thereto nine or more marine leagues from the coast line of Spanish territories and possessions. This being true the historical boundaries of the Floridas, when acquired by the United States, and of the State of Florida when she became a member of the Union, extended into the Gulf of Mexico three or more marine leagues from the coast line of the said Floridas or the State of Florida.

## FIFTH DEFENSE

For a Fifth Defense to the said Fifth Cause of Action the said State of Florida says that there is no rule of international law or rule of nations which limits the marginal sea and the seaward boundaries of states and nations to not

more than three geographic miles from the ordinary low water mark and from the outer waters on the coasts of such states and nations and further says that such rules of international law and rules of nations do not invalidate the provisions of the Submerged Lands Act of May 22, 1953, which releases and relinquishes to the states bordering on the Gulf of Mexico the right, title and interest to submerged lands in the said Gulf of Mexico, including all improvements and natural resources therein, thereon, or in the waters above such land.

SPESSARD L. HOLLAND
United States Senator
Washington, D. C.

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Attorney General

FRED M. BURNS
Assistant Attorney General

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